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Attorneys for Plaintiff
American Covers, Inc.

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION**

American Covers, Inc., a Utah corporation, Plaintiff /Counterclaim Defendant, vs. Brandywine Product Group International, Inc., a Delaware corporation, Defendant/Counterclaimant.	AMERICAN COVERS' ANSWER TO COUNTERCLAIM Civil Action No. 2:12-cv-00312-PMW Magistrate Judge Paul M. Warner
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Plaintiff American Covers, Inc. ("American Covers") by and through its counsel hereby answers Brandywine Product Group International, Inc.'s ("BPG") Counterclaim as follows. In answering BPG's Counterclaims, American Covers has adopted the paragraph numbers presented therein which begins with paragraph number 29.

ANSWER TO BPG COUNTERCLAIM

29. American Covers admits the allegation contained in paragraph 29 of BPG's Counterclaim.

30. American Covers admits the allegation contained in paragraph 30 of BPG's Counterclaim.

31. American Covers admits the allegation contained in paragraph 31 of BPG's Counterclaim.

32. American Covers admits the allegation contained in paragraph 32 of BPG's Counterclaim.

33. American Covers admits the allegation contained in paragraph 33 of BPG's Counterclaim.

34. American Covers admits the allegation contained in paragraph 34 of BPG's Counterclaim.

35. American Covers admits that United States Patent No. D604,826 is attached as Exhibit A to the Counterclaim and that the document speaks for itself. American Covers denies all other allegations contained in paragraph 35 of BPG's Counterclaim.

36. American Covers lacks sufficient information to admit or deny the allegations contained in paragraph 36 of BPG's Counterclaim and therefore denies the same.

37. American Covers admits that United States Patent No. D614,279 is attached as Exhibit B to the Counterclaim and that the document speaks for itself. American Covers denies all other allegations contained in paragraph 37 of BPG's Counterclaim.

38. American Covers lacks sufficient information to admit or deny the allegations contained in paragraph 38 of BPG's Counterclaim and therefore denies the same.

39. American Covers admits that it sells certain air freshener products in the shape of a daisy through Advance Auto Parts stores under the REFRESH YOUR CAR® brand examples of which were attached as Exhibit A to the Complaint in this action. American Covers denies all other allegations contained in paragraph 39 of BPG's Counterclaim.

40. American Covers admits that it contracts for the manufacturing of certain air freshener products in the shape of a daisy and subsequently sells said products. American Covers denies all other allegations contained in paragraph 40 of BPG's Counterclaim.

41. American Covers incorporates the foregoing admissions, denials, and other responses as if fully set forth herein.

42. American Covers denies the allegations contained in paragraph 42 of BPG's Counterclaim.

43. American Covers denies the allegations contained in paragraph 43 of BPG's Counterclaim.

44. American Covers denies the allegations contained in paragraph 44 of BPG's Counterclaim.

45. American Covers admits that it is now aware of U.S. Patent No. D604,826, but denies all other allegations contained in paragraph 45 of BPG's Counterclaim.

46. American Covers denies the allegations contained in paragraph 46 of BPG's Counterclaim.

47. American Covers incorporates the foregoing admissions, denials, and other responses as if fully set forth herein.

48. American Covers denies the allegations contained in paragraph 48 of BPG's Counterclaim.

49. American Covers denies the allegations contained in paragraph 49 of BPG's Counterclaim.

50. American Covers denies the allegations contained in paragraph 50 of BPG's Counterclaim.

51. American Covers admits that it is now aware of U.S. Patent No. D614,279, but denies all other allegations contained in paragraph 51 of BPG's Counterclaim.

52. American Covers denies the allegations contained in paragraph 52 of BPG's Counterclaim.

FIRST AFFIRMATIVE DEFENSE

BPG's Counterclaim and each cause of action therein fail to state any cause of action against American Covers.

SECOND AFFIRMATIVE DEFENSE

BPG's Counterclaim and each purported cause of action asserted therein are barred in whole or in part based on the doctrine of estoppel.

THIRD AFFIRMATIVE DEFENSE

BPG's Counterclaim and each purported cause of action asserted therein are barred in whole or in part due to BPG's unclean hands.

FOURTH AFFIRMATIVE DEFENSE

BPG's Counterclaim and each purported cause of action asserted therein are barred in whole or in part based on the doctrine of acquiescence.

FIFTH AFFIRMATIVE DEFENSE

At all times described in BPG's Counterclaim, American Covers was acting properly and within its legal rights in engaging in any conduct alleged by BPG to be improper.

SIXTH AFFIRMATIVE DEFENSE

To the extent BPG establishes any right to damages in this action, any recovery is either

barred or must be reduced by reason of its failure to mitigate and lessen its damages.

SEVENTH AFFIRMATIVE DEFENSE

BPG is not entitled to any relief as American Covers products do not do not infringe and have not infringed, directly or indirectly, any valid claim of U.S Patent Nos. D604,826 and/or D614,279.

EIGHTH AFFIRMATIVE DEFENSE

United States Patent No. D604,826 is invalid and/or unenforceable for failing to meet one or more of the requisite statutory and/or decisional requirements and/or conditions of patentability specified in Title 35 of the United States Code, including, but not limited to, 35 U.S.C. Part II (35 U.S.C. §§ 100-212).

NINTH AFFIRMATIVE DEFENSE

United States Patent No. D614,279 is invalid and/or unenforceable for failing to meet one or more of the requisite statutory and/or decisional requirements and/or conditions of patentability specified in Title 35 of the United States Code, including, but not limited to, 35 U.S.C. Part II (35 U.S.C. §§ 100-212).

TENTH AFFIRMATIVE DEFENSE

BPG is barred from recovering damages for any alleged patent infringement due to failure to properly mark its products and/or provide notice pursuant to 35 U.S.C. § 287.

American Covers may be entitled to assert other affirmative defenses of which it presently is unaware. American Covers expressly reserves the right to assert such additional affirmative defenses at a later time and/or to seek leave of court to amend or supplement this Answer to Counterclaim, prior to and/or after trial, to conform to proof as necessary and/or as additional information becomes available through discovery.

WHEREFORE, American Covers prays that judgment be entered in its favor and against BPG; that BPG take nothing by way of its Counterclaim; that American Covers be awarded its

reasonable attorneys' fees and costs of suit incurred herein; and that the Court grant such other and further relief as the Court deems just and proper.

Dated: August 31, 2012

/Jed H. Hansen/

Peter M. de Jonge

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Mark M. Bettilyon

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Attorneys for Plaintiff

American Covers, Inc.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing **AMERICAN COVERS' ANSWER TO COUNTERCLAIM** was served upon the Defendant at the following by the methods indicated below:

John C. Rooker
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- ☐ Electronic Mail
- ☒ United States Mail
First Class, Postage Pre-Paid
- ☐ Overnight Delivery
- ☐ Fax Transmission

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DATED this 31st day of August, 2012.

/Kelley Warner/
Kelley Warner